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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,572	08/20/2008	Shinichiro Kawasaki	566.46629X00	2580

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EXAMINER

WU, QING YUAN

ART UNIT	PAPER NUMBER
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2196

MAIL DATE	DELIVERY MODE
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12/01/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/593,572	Applicant(s) KAWASAKI ET AL.	
	Examiner QING WU	Art Unit 2196	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/20/06, 4/9/08, 8/24/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-4 are pending in the application. Claims 2 and 4 are withdrawn from consideration.
2. Claims 1 and 3 failed the 3-prong analysis set forth in MPEP 2181 and will not be treated under 35 USC 112 sixth paragraph.

Election/Restrictions

3. Applicant's election without traverse of Claims 1 and 3 in the reply filed on 10/12/10 is acknowledged. Claims 2 and 4 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Information Disclosure Statement

5. It is noted that translation of Office Actions from foreign offices were submitted but not cited in PTO-1449 form. Applicant should consider citing them in a PTO-1449 form for the examiner to properly consider the submissions.

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6. Document “Virtualization Capability of Java Virtual Machine: Multitasking” to Kazuyuki in the information disclosure statement filed on 4/9/08 is not considered because copy of an English translation is not available to the examiner.

Specification

7. Applicant is suggested to place corresponding sections of the specification under the proper headings (i.e. reinserting the section Brief Description of the Drawings on pgs. 55-56 in the proper order).

8. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant’s use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase “Not Applicable” should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

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- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Objections

9. Claim 3 objected to because of the following informalities: "a computer resource" on pg. 62, line 11 should read "the computer resource" and all instances of "the resource" and "the computer resource" should be consistently referred to as "the computer resource". Claim 1 is objected to for the same reason. Appropriate correction is required.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claim 1 is rejected under 35 U.S.C. 101 because it is a information terminal claim directed to software alone without claiming associated computer hardware required for execution, and software alone fails to fall within a statutory category of invention. As recited in the claim, the virtual machine, resource managing means can nonetheless be software modules. In addition, resource limit value storing means can nonetheless be software data structures such as queue, table, etc. Applicant should consider claiming computer hardware as a part of the information terminal to overcome the outstanding 35 USC 101 rejection.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Schmidt et al (hereafter Schmidt) (U.S. Patent Publication 2005/0177635).

14. As to claim 3, Schmidt teaches the invention as claimed including a computer resource managing method for an information terminal, wherein said information terminal refers to a resource limit value storing means which stores a limit value of a computer resource usable by a virtual machine, when a request for securing the resource is received from the virtual machine that executes, on an OS (Operating System), an intermediate code program being a program represented by an intermediate code; if a computer resource that becomes available for said virtual machine by securing the computer resource in response to the request is lower than said limit value, requests said OS to secure the computer resource in response to the request; and if the computer resource that becomes available for said virtual machine by securing the computer resource in response to the request is equal to or higher than said limit value, does not request said OS to secure the computer resource in response to the request [server computer referring to

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a resource limit imposed on application, an intermediate code program, executing in a virtual machine that executes in an operating system such that resource accesses that are under the resource limit is allow and resource accesses exceeding the resource limit are denied, paragraphs 14, 39-42, 44, 47, 49-50 and 87-89; Figs. 1-2, 5 and 8-9].

15. As to claim 1, Schmidt teaches the method for computer resource as recited in claim 3, therefore Schmidt teaches the information terminal for implementing the method.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

PG Pub. 2005/0125537 to Martins et al., US Patent 6,829,772 to Foote et al. teach resource management in a computer terminal executing virtual machine(s).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to QING WU whose telephone number is (571)272-3776. The examiner can normally be reached on 9:30am-6:00pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emerson Puente can be reached on (571) 272-3652. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/QING-YUAN WU/
Primary Examiner, Art Unit 2196